IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928

WP(C).No. 20139 of 2006(V)

PETITIONERS:

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1. ANANDAVALLI,
   SHEEJA BHAVAN, EZHUKON VILLAGE,
   KOTTARAKKARA TALUK, QUILON DISTRICT.

2. A.BIJU MOL, D/O. LATE LEKSHMANAN,
   SHEEJA BHAVAN, EZHUKON VILLAGE,
   KOTTARAKKARA TALUK, QUILON DISTRICT.

3. SHYJA, D/O. LATE LEKSHMANAN,
   SHEEJA BHAVAN, EZHUKON VILLAGE,
   KOTTARAKKARA TALUK, QUILON DISTRICT.

BY ADV. SMT.V.P.SEEMANDINI
SMT.S.KARTHIKA
SMT.T.B.REMANI
SRI.M.R.ANISON

RESPONDENTS:

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1. SOUTHERN RAILWAY, REP. BY THE
   CHIEF ENGINEER, THYCAUD, THIRUVANANTHAPURAM.

2. STATE OF KERALA, REP. BY THE
   DISTRICT COLLECTOR, QUILON.

3. ASST. EXECUTIVE ENGINEER,
   SOUTHERN RAILWAY, QUILON.

4. SPECIAL TAHSILDAR,
   LAND ACQUISITION (RAILWAY), QUILON.

BY ADV. SRI.ALEXANDER THOMAS, SC,RAILWAYS
R2, BY GOVT. PLEADER SMT.LAKSHMI RANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.20139/06

PETIITONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE NOTIFICATION REGARDING THE SAME WAS PUBLISHED IN KERALA KAUMUDI DAILY DATED 15.7.2005.

EXT.P2: TRUE COPY OF THE CITE PLAN OF THE BUILDING PREPARED BY THE 1ST RESPONDENT.

EXT.P3: TRUE COPY OF THE REPRESENTATION DATED 22.6.2006 SUBMITTED BY THE 1ST AND 2ND PETITIONERS BEFORE THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF THE PHOTOGRAPH SHOWING THE LIE OF THE BUILDING.

RESPONDENT'S EXHIBITS:

EXT.R3(a): TRUE COPY OF MINUTES OF THE MEETING HELD BY THE HON'BLE CHIEF MINSTER ON 7.10.2004.

EXT.R3(b): TRUE COPY OF THE NOTIFICATION NO.11842/A2/2004/TRAN DT.23.11.04.

EXT.R3(c): TRUE COPY OF THE SITE PAN OF PETITIONER'S PROPERTY IN QUESTION.

EXT.R3(d): TRUE COPY OF THE ABSTRACT ESTIMATE OF PETITIONER'S PRPERTY.

EXT.R3(e): TRUE COPY OF THE PETITIONER'S RECEIPT FOR CHEQUE NO.022960 DT.26.3.2005.

EXT.R3(f): TRUE COPY OF THE PETITIONER'S LETTER DT.10.1.2005 TO the DY.CE/CN/QLN.

EXT.R3(g): TRUE COPY OF THE VALUATION FOR THE ADDITIONAL AREA OF THE PETITIONER'S PROPERTY.

EXT.R3(h): TRUE COPY OF THE LETTER DT.3.3.2005 CONTAINING REVISED VALUATION STATEMENT.

EXT.R3(i): TRUE COPY OF THE AWARD NO.1/2005-06(32) DATED 16.7.05.

EXT.R3(j): TRUE COPY OF THE PETITIONER'S RECEIPT FOR CHEQUE NO.035118 DT.6.1.2006.

EXT.R3(k): TRUE COPY OF THE LETTER NO.LAC 32/04/EZH DT.23.6.2006 ISSUED BY SPL.TAHSILDAR FOR RAILWAYS TO THE DISTRICT COLLECTOR, QUILON.

EXT.R3(l): TRUE COPY OF THE PETITIONER'S REPRESENTATION DT.14.11.2005 TO THE DY.CE/RLY.

EXT.R3(m): TRUE COPY OF THE LETTER NO.W.148/AXEN/CN/QLN/R.II DT.DT.19.7.2006 ISSUED BY THE AXE/CN/QLN TO LTHE PETITIONER.

EXT.R3(n): TRUE COPY OF THE UNDERTAKING DT.26.7.2006 SUBMITTED BY THE PETITIONER TO THE RAILWAYS.

/TRUE COPY/

Thottathil B.Radhakrishnan,J.

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W.P.(C)No.20139 of 2006

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Dated this the 11th day of December,2006.

JUDGMENT

Read orders dated 29.11.2006 and 30.11.2006.

2. Following the aforesaid orders, D.D.No.252458620 dated 1.12.2006 drawn on Indian Overseas Bank, Ezhukone Branch in favour of Senior Assistant Financial Advisor, Constructions, Southern Railways, Ernakulam for an amount of Rs.1,98,870/- is made available in Court by the learned counsel for the petitioners and is handed over to the counsel appearing for the Southern Railway.

3. Recording the aforesaid facts, this writ petition is disposed of directing that the petitioners shall forthwith give vacant possession, of the portion excluding that which is covered by the aforesaid orders, to the Southern Railway. It is further directed that the Southern Railway or any personnel or contractor under it or the revenue recovery authorities shall not be responsible, in any manner whatsoever, for any loss or damage that may be

caused to the portion of the building that is to be retained by the petitioners following the aforesaid orders and this judgment.

4. The petitioner will be at liberty to provide such reenforcement of the portion that is to be retained by them with the concurrence of the Railways. The petitioners will proceed to deliver the property without awaiting for issuance of the certified copy of this judgment.

5. Copies of the orders dated 29.11.2006 and 30.11.2006 will be appended to this judgment.

The writ petition is closed accordingly.

Thottathil B.Radhakrishnan,
Judge.

kkb.

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.20139 OF 2006

Dated this the 30th day of November, 2006

O R D E R

Read the order dated 29.11.2006. Learned counsel for the petitioners submits that the petitioners are willing to pay to the Railways an amount of Rs.1,98,865/- (Rupees One Lakh Ninety Eight Thousand Eight Hundred and Sixty Five only). They shall produce demand draft for the said amount before this Court in favour of Senior Assistant Financial Advisor (Constructions), Southern Railway, Ernakulam on the next date of posting.

List on 7.12.2006.

Sd/-
THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.